

REMARKS

I. Status of Claims

Claims 1-20 and 22-92 are currently pending. By this amendment, claims 1 and 43-45 have been amended.

Support for the amendments to claims 1 and 43-45 can be found in the originally-filed specification, for example on page 6, paragraph [016], stating that "the at least one hydroxide compound and the at least one oxidizing agent are present in a combined amount effective to relax the keratinous fibers." No new matter has been added.

II. Rejections under 35 U.S.C. § 103

A. Au

In the July 23, 2004, Office Action, the Examiner continues to assert that U.S. Patent No. 5,872,111 to Au et al. ("Au") renders the instant claims obvious, although Applicants have explained, among other things, that Au nowhere teaches or suggests a composition for lanthionizing keratinous fibers wherein the at least one hydroxide compound and the at least one oxidizing agent are present in the composition in a sufficient quantity to effect lanthionization of keratinous fibers, as claimed herein.

According to the Examiner, Au teaches at least one oxidizing agent present in an amount parallel to amounts exemplified in the instant specification (i.e., the bleaching agent hydrogen peroxide), "and wherein the bleaching agent is part of the composition and is not used or involved in the process of manufacturing of the surfactants[,] which is contrary to the applicant's assertion." Advisory Action at 2. Applicants respectfully disagree.

The Examiner refers to the portion of Au's disclosure that states that "[t]ypical levels of bleaching agent are from about 0.01% to about 7% . . . by weight of the total reaction mixture." Au at col. 30, ll. 13-16 (emphasis added). This "reaction mixture" refers to the reaction from the manufacture of the glycosylamides to which the disclosure is primarily drawn. Au then goes on to explain that "[t]he glycosylamide surfactants prepared by the method of the invention are generally isolated as crystalline solids in good yield, high purity and desirable color." *Id.* at col. 31, ll. 10-12.

Au later states that these glycosylamide surfactants may be added to compositions, such as hair care products. Therefore, the Examiner is mistaken in asserting that the 0.01% to 7% of bleaching agent would still be present in the hair care composition. It is clear from reading the disclosure as a whole that the bleaching agent added to the reaction mixture would likely not be present at all in a composition, as the glycosylamide surfactants would have been previously bleached and purified to crystalline form. Thus, Au does not teach or suggest a composition for lanthionizing keratinous fibers wherein the at least one hydroxide compound and the at least one oxidizing agent are present in the composition in a sufficient quantity to effect lanthionization of keratinous fibers, and Applicants respectfully request reconsideration of this rejection.

B. Au in view of Pyles and Au in view of Wella

The rejection of claim 29 under 35 U.S.C. §103 as allegedly obvious over Au in view of U.S. Published Patent Application No. 2001/0008630 to Pyles et al. ("Pyles") has been maintained for the reasons of record, and the Examiner has additionally rejected claims 5-8 and 43-45 under 35 U.S.C. § 103 as allegedly obvious over Au in

view of Wella. Applicants respectfully traverse for at least the reasons set forth in the July 12, 2004, Amendment after Final.

Additionally, Applicants note that the July 23, 2004, Advisory Action states that Au "clearly suggests the use of the moisturizer of tallow fatty acids[,] which are essential amino acid compounds in the composition," and Pyles "teaches a composition comprising amino acid of sodium [g]lutamate." Advisory Action at 2 (emphasis added). As Applicants discussed in the July 12, 2004, Amendment after Final and as one of ordinary skill in the art would recognize, the phrase "essential amino acids" refers to a specific category of amino acids. Glutamate is not an essential amino acid, but rather is classified by those of ordinary skill in the art as a non-essential amino acid. Applicants thus do not believe a *prima facie* case of obviousness has been established on these grounds and respectfully request reconsideration of this rejection.

III. Conclusion

In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: September 13, 2004

By: Erin C. DeCarlo
Erin C. DeCarlo
Reg. No. 51,688